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Convention on the Rights of the Child

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**Committee on the Rights of the Child**
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Item 4 of the provisional agenda
**Consideration of reports of States parties**

# List of issues in relation to the report submitted by the Niger under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

**Addendum**

## Replies of the Niger to the list of issues*

[Date received: 17 July 2018]

* The present document is being issued without formal editing.

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The Government of the Niger is pleased to have submitted its report to the Committee on the Rights of the Child under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. It thanks the Committee for having conducted a preliminary review of the report, following which a list of issues was transmitted to it, and has the honour to provide the experts with the replies set out below.

The question numbers correspond to those found in the list of issues drawn up by the Committee.

## Reply to question 1

1. The Niger ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography on 26 October 2004. However, despite its ratification, the Optional Protocol has not yet been incorporated into domestic law.

2. Notwithstanding the lack of a specific policy to implement the Optional Protocol, its provisions are taken into account not only in the National Policy on the Protection of Children from Abuse, Violence and Exploitation but also in the national programme on the roll-out of this policy.

3. Funding for the roll-out of this policy is provided by the Government. Yet the budget allocated to the Ministry for the Advancement of Women and the Protection of Children is insufficient. It represents 0.09 per cent of the national budget.

(a) The number of reported cases of the sale of children, child prostitution and child pornography, as well as other forms of exploitation, including slavery, *wahaya* (fifth wife) and *talibé*, is not available. However, the monitoring and evaluation plan introduced by the Government in 2015 has enabled it to collect the following statistics on cases handled in 2016 and 2017.

| *Indicator* | *Total* |
|---|---|
| Abandoned victims — unidentified, separated from family, unaccompanied | 520 |
| Neglect | 322 |
| Abuse | 261 |
| Sexual abuse (sexual assault/rape) | 185 |
| Exploitation and worst forms of child labour | 49 |
| Commercial sexual exploitation | 11 |
| Trafficking | 144 |
| Intimidation or early marriage | 222 |
| High-risk behaviour | 523 |
| Other | 273 |
| **Total** | **2 516** |

(b) According to judicial statistics for 2015, the number of victims of trafficking for the purposes of sale, prostitution, forced labour, illegal adoption, organ transfer or pornography was 687, of whom 48.5 per cent were minors.

(c) There are no known statistics on the number of children offered or delivered for the above purposes, because none have been collected or reported.

(d) The number of child victims of the offences set out in the Optional Protocol who have been given assistance with reintegration or have received compensation is not available.

## Reply to question 2

4. There is currently no strategy to prevent and combat the sale of children, child prostitution and child pornography. All action taken in this regard has been focused on raising awareness among communities and encouraging their participation to ensure that they report to the authorities any suspected cases of which they are aware.

5. The National Action Plan for Combating Trafficking in Persons 2014–2018, which was adopted by Decree No. 2014-488 of 22 July 2014, includes a children's dimension in the form of the specific activities envisaged in strategic approach No. 2, which is aimed at reducing the vulnerability of women and children.

6. The National Child Protection Programme 2014–2019 covers the offences set out in the Optional Protocol. Awareness-raising activities are carried out by the specialized services with a view to preventing these offences.

## Reply to question 3

7. The mechanisms that ensure the coordination and overall monitoring of activities to give effect to the provisions of the Optional Protocol and the mechanism for monitoring and evaluating the implementation of the Optional Protocol are the ones that were established as part of the child protection framework. They bring together all State and non-State actors and those attached to international organizations and international non-governmental organizations (NGOs) working in the field of child protection.

8. Although there is no specific national action plan for the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the issues addressed in the Optional Protocol have been taken into account in the National Child Protection Policy, whose action is coordinated at the national, regional and departmental levels, respectively, by:

- The Directorate General for the Protection of Children;
- Regional directorates for the advancement of women and the protection of children;
- Departmental directorates for the advancement of women and the protection of children.

## Reply to question 4

9. Each year, the regional and departmental directorates for the advancement of women and the protection of children develop and carry out awareness-raising and training programmes in the course of implementing strategic approach No. 1 of the National Child Protection Policy, which is entitled "Prevention of all forms of abuse, violence and exploitation against children". The main activities undertaken in this regard are:

- Radio and television broadcasts and debates on protection issues, including prostitution, that affect the general public;
- Special events that provide children with opportunities to express themselves;
- Orientation sessions aimed at a variety of target groups.

10. These communication activities, which are carried out by social workers, receive technical and financial support from the United Nations Children's Fund (UNICEF) and other partners.

11. In addition, a communication plan concerning the irregular migration of women and children is being drafted and will cover the various offences set out in the Optional Protocol.

## Reply to question 5

12. There are, depending on the cases in question, several sectoral strategies that contribute to combating the phenomena that put children particularly at risk from the offences described in the Optional Protocol, such as children of slave descent, children in street situations, migrant children, refugee and asylum-seeking children, children subjected to forced labour, including *talibés*, orphaned children, children separated from their families and unaccompanied children. The ministries concerned are the Ministries of the Protection of Children, Labour, Justice and the Interior. Special importance is attached in these strategies to raising community awareness; NGOs and associations participate in this effort through community-based protection, which is one of the tools developed to combat the persistence of certain practices, including *wahaya*.

13. The main steps taken to improve the identification of children exposed to the sale of children, child prostitution and child pornography, and other risks, are:

- Building the capacity of social welfare officers to deal with various forms of abuse, violence and exploitation;
- Stepping up public information and awareness-raising efforts concerning the social services, including their mandate, the assistance they provide and the individuals they target (the beneficiaries). This strategy is aimed at increasing the visibility of the social services in order to boost the reporting of cases of children who are at risk and/or victims of abuse, violence or exploitation;
- Implementing strategic approach No. 1 of the Policy for the Judicial Protection of Juveniles, which is entitled "Strengthening the mechanism to identify, assess and report at-risk children".

## Reply to question 6

14. Articles 270.1 to 270.5 of the Criminal Code define serious and correctional offences of slavery and provide for a common system of compensation. The perpetrators of these offences are prosecuted each time the offences are reported; these prosecutions have resulted in convictions at both the national and regional levels (as in the case concerning *Hadijatou Mani Koraou v. the Republic of Niger*). The above-mentioned provisions also stipulate that "any duly registered association, whose purpose, according to its statutes, is to combat slavery or slavery-like practices, is authorized to bring civil action for recovery of damages caused by violations of the criminal law on slavery".

## Reply to question 7

15. The sale of children is defined as an offence punishable by law under article 270 of the Criminal Code, which stipulates that:

> "Anyone who deprives another person of his or her liberty, whether or not in return for payment, shall be punished by a term of imprisonment of between 10 and 30 years.
>
> If the victim is under the age of 13 years, the punishment shall be life imprisonment.
>
> If the perpetrator deprives more than one person of his or her liberty, the death penalty shall apply."

16. Article 292 of the Criminal Code imposes a penalty of between 2 and 5 years' imprisonment and a fine of between 50,000 and 5,000,000 CFA francs on anyone who uses minors in prostitution.

17. Lastly, article 293 of the Criminal Code imposes a penalty of between 2 and 5 years' imprisonment and a fine of between 50,000 and 5,000,000 CFA francs on "anyone who infringes morals by habitually inciting, encouraging or facilitating vice or corruption in

young people of either sex under the age of 21 years, or who does so even occasionally in minors under the age of 13 years".

## Reply to question 8

18. The provisions of Ordinance No. 2010-86 of 16 December 2010 on combating trafficking in persons are effectively implemented in the Niger. Although the Ordinance does not specifically cover trafficking in children, proceedings have been instituted by the judicial authorities in many reported cases. After several years of implementing the Ordinance and identifying the lessons learned from its shortcomings, discussions were held on the need to revise this instrument in order to incorporate trafficking in children and aggravated trafficking. An amendment bill has been drafted in this regard.

## Reply to question 9

19. In the Niger, the rights of child victims and child witnesses in criminal proceedings are protected by the following laws:

- Act No. 2014-72 of 20 November 2014 establishing the powers, functions and operation of the juvenile courts in the Niger. The Act stipulates the conditions under which children are to be heard in proceedings concerning them and the measures to be implemented, failing which the proceedings will be declared null and void;
- Act No. 2011-42 of 14 December 2011 establishing the rules applicable to legal and judicial assistance and creating a public administrative institution named the National Agency for Legal and Judicial Assistance. The Act provides that, at all stages of the proceedings, legal aid is to be granted automatically to children, regardless of whether they are perpetrators, victims or witnesses, failing which the proceedings will be declared null and void.

20. Measures to facilitate the social reintegration of victims and their physical and psychological rehabilitation in appropriate facilities are implemented in accordance with applicable laws. Strategic approach No. 3 of the Action Plan to Combat Human Trafficking, in objective 2, outcome 2, calls for victims to receive adequate treatment or assistance in the form of medical/psychosocial, health-related, socioeconomic, administrative and legal services. Such assistance and treatment are to be provided to victims by reception centres that are equipped with trained staff possessing the various skills required for each of these services.

## Reply to question 10

21. All the offences referred to in article 3 (1) of the Optional Protocol are covered by domestic legislation. Moreover, the Code of Criminal Procedure provides for the extraterritorial jurisdiction of the criminal courts of the Niger over cases in which, irrespective of where the offence is committed, the victim or the perpetrator is a citizen of the Niger or the perpetrator is in the territory of the Niger.